Timothy L. Palmer, Bailee for Real Party in Interest
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District Court for the United States
Western Division of Washington
At Tacoma

THE UNITED STATES OF AMERICA

Plaintiff,

v

TIMOTHY L. PALMER, DEANNA M. PALMER, THE LAND BOUNTIFUL, et al

Defendants

COURT CASE NO. **C-08-5249-FDB**

MEMORANDUM in support of MOTION FOR SHOWING CAUSE WHY THE PLAINTIFF's ATTORNEY IS NOT IN CONTEMPT OF OATH OF OFFICE

[filed concurrently with answer]

Oral Argument Waived

The Honorable Franklin D. Burgess

POINTS AND AUTHORITIES

In support of Movants' motion for showing cause why the plaintiff's attorney is not in contempt of a court order mandating that Plaintiff's attorney swear an oath of office to uphold the Constitution , the rules of court, and the canons of ethics, Movants offer the following tenets underlying certain court opinions. The tenets are not presented as argument, but as arguable *cci,* since numerous case cites may be found to contradict each other, but the tenets of law are all based on the same principle of honor/dishonor, which cannot change would be changed.

I. PRIVATE SETTLEMENT MANDATE

No party is permitted to seek judicial review, until private administrative remedies have been exhausted. Because courts recognize the 11th hour change of heart that occurs frequently, which is why most cases do not go to trial, commerce is very forgiving in permitting someone who has discovered the error of his ways to correct his mistakes. The judge in the decision in OK Corp vs. Williams 461 F. Supp 540, strongly intimated that a party who fails to settle or negotiate in the private is actually 'on appeal' if the case has to go to court. This is a disaster because no new evidence may be produced on appeal. For the US attorney in this matter to insist on public adjudication, on some predilection to believe that people never change, is contrary to everything the due process mandates prescribe. This is why it ties in very closely with the decision based on the tenet found in Davila vs. Shalala 848 F. Supp 1141, which provides that any party who fails to produce or re-create the record, must expect the court to construe said party as having no position. The dishonor of silence far outweighs that even of argument, which is why it would be extremely unconscionable for the US attorney to compel a party into public litigation prior to their newly discovered duty to produce or re-create a record.

Contempt of a court order is not limited to the time or place of the issuance of the order. When each attorney applies to practice law, he or she, upon being found fit, **is ordered to take an oath of office** to uphold the Constitution, abide by the rules of court, and live in honor pursuant to the canons of ethics. That court order is so strong and so powerful it is reinforced by the past 20 years of strong sanctions against attorneys who violate that order, as incorporated into the Federal Rules of Civil Procedure, specifically at Rule # 11, which absolutely forbids an attorney to affix his or her name to any document filed with the court which contains any misrepresentation whatsoever. Should Plaintiff's attorney dare to stand in front of this honorable court and allege that there is a controversy requiring the resources of the court, prior to demonstrating with factual and admissible evidence that Movants are disingenuous, shall lie as *prima facie* evidence that this attorney does not take her oath of office seriously, and is willing to risk the ramifications of 18 USC §1001, which prescribes the punishment for making unsupported statements to the court. This alone, should justify the motion for showing cause, and be gratefully received by all parties operating in good faith,

in order to ensure that Plaintiff proceeds lawfully and legally, insuring the court that there is no other means available for resolution. This is a heavy burden because, while Movants have not yet had enough time to make substantial changes in the record, having received the third amended complaint today, Plaintiff still has nothing more than presumptions and assumptions, and a record demonstrating an unwillingness to allow truly repentant parties to make restitution and repent. Thus, the motion for showing cause should demonstrate to the US attorney that the private settlement is actually between movements and the agency, i.e. , the IRS.

Now that Movants understand the function of the agency is to ensure the return of the ' tax' to its source, and Movants have a reasonable idea of how to create the record to establish themselves as the source, it would be foolhardy for Plaintiff's attorney to attempt to persuade the court that the request for private settlement is disingenuous. Foolhardy includes violations of the oath of office, under court order, to uphold the Constitution because the loss of constitutional rights, even for short periods of time, constitutes irreparable injury (reference: Deerfield Medical Center vs. City of Deerfield Beach, 661 F.2d 328-338 [Fifth Circuit 1981]) Should the US attorney allege before this honorable court that there is not a remedy other than public adjudication, when the record demonstrates the exact opposite, the court would become a participant in a debt which could not be discharged, because if the Plaintiff will not permit a private settlement, it cannot use the court to extort a settlement under threat and duress, until it demonstrates unequivocally that movants are recalcitrant or have no other path except to perpetuate a fraud upon the court, when this stay, if unopposed, would clearly demonstrate Movants will begin filing their tax returns for all of the years in question, providing the IRS with all of the books and records demonstrating the identity of the public entities to whom the private credit was granted, benefitting all parties, and demonstrating that no one needs to use the court to twist Movants' arms any longer.

Movants were truly grateful that the US attorney patiently did not oppose the prior requests for expansions of time made in the public venue, for unbeknownst to all parties, the correct information on how to establish an accurate record fell into Movants laps, unexpectedly.

Just because the event could not have been foreseen, does not mean it should be disregarded at the price of denial of due process, involuntary servitude, abrogating the right to petition the Government

for a redress of grievance , and, the taking of private property for public use without just compensation, because all of those will result if a Plaintiff/agency can compel someone into a judicial review after the party has acceded to the wishes of the agency. For what purpose, to what avail? Give the agency an opportunity to determine a ruling before asking a court to review it. If US attorney wants to skip over that part, she must show cause, or be deemed in contempt of the court order mandating that she uphold her oath of office .

The court is already an appeal, which is why the rules for setting aside a default judgment are so strict. Movants have learned late that private settlement is possible, but not too late, as it is never too late to settle and close an open account.

If Plaintiff's attorney wants her day in court, she may have it addressing this motion for showing cause, because silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. [reference US vs. Tweel, 550 F.2d 287 (1997)].

"It is the province of the judiciary to determine what the law is, not what it should be. [US vs. Dickerson, 166 F3d 667 (fourth circuit 1999)]. If Movants attempt to come to an agreement with the agency, the US attorney should be requested to show cause why she is not interfering with a private contract or settlement, by this honorable court .

In his Judicial Review of Settlements and Consent Decrees: An Economic Analysis, Sanford I. Weisburst's Abstract opines: "It is a well-known fact that most litigation, civil and criminal, ends in settlement rather than trial. Somewhat less attention is paid to the rules that govern the process of settlement. This should not be too surprising, given that the **general rule is that there are no rules**: parties to a lawsuit are free to settle without obtaining the court's approval. But there are several exceptions, areas where the parties must seek and obtain judicial approval of their

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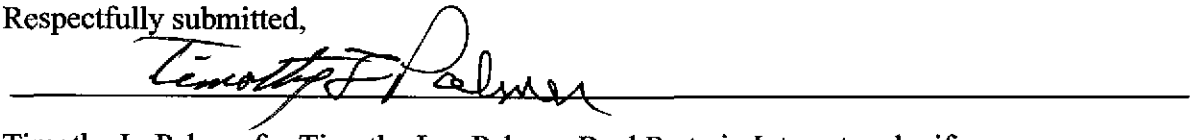
settlement." This is why Movants did not request a discharge or dismissal. Plaintiff's attorney still has the option to keep the control over the final resolution in the hands of the court.

October 24, AD2008

Respectfully submitted,



Timothy L. Palmer for Timothy Lee Palmer, Real Party in Interest and wife